

02-07-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #23

TTAB

CERTIFICATE OF MAILING

A copy of the foregoing mailed, United State Express mail, postage prepaid, this 4 day of February, 2003, to:
Box TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-5313.

Lisa Oskew

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN PROMOTIONAL EVENTS, INC.)

Petitioner,)

vs.)

O.K. FIREWORKS)

Registrant.)

Cancellation No. _____

U.S. Reg. No. 2,043,091

02/07/2003

PETITION FOR CANCELLATION

To: Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-5313

Dear Sir or Madam:

In the matter of United States Patent and Trademark Office Trademark Registration
Number 2,043,091 on the Principal Register for the mark OK FIREWORKS for retail fireworks
outlet services in International Class 42, registered by O.K. Fireworks ("Registrant"), with an
address listed on Trademark Office records as 5401 West Skelly Dr., Tulsa OK 74107,
Petitioner, American Promotional Events, Inc., a company organized and existing under the laws
of the State of Alabama, and having an office and place of business at 4511 Helton Dr., Florence,
AL 35630 ("Petitioner") believes that it will be damaged by the continued registration of
Registrant's said mark and hereby seeks cancellation thereof.

The grounds for cancellation are as follows:

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Mark: OK FIREWORKS

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1. Registrant is the owner of U.S. Patent and Trademark Office Trademark Registration No. 2,043,091 for the mark OK FIREWORKS for retail fireworks outlet services ("Registered Mark"). The Registration issued on March 11, 1997.

2. Petitioner is the owner of the name, common law mark, and United States trademark application for O.K. FIREWORKS ("Petitioner's Mark"), Serial No. 78/144,468 for retail store services featuring fireworks ("Petitioner's Services") in International Class 35 ("Application").

3. Petitioner or its predecessor in interest has used since at least as early as 1955 and currently is using in commerce O.K. FIREWORKS in connection with Petitioner's Services. Petitioner has a well-recognized reputation for excellence of services offered under the O.K. FIREWORKS mark. Petitioner has promoted, caused to be promoted, and is now promoting its aforesaid mark in interstate commerce within the United States for identifying its services.

4. Petitioner has expended substantial time and effort in advertising and promoting its services under its O.K. FIREWORKS mark, and the mark identifies Petitioner and its services.

5. Upon information and belief, Registrant has ceased all use of the Registered Mark without intention to resume use as it has assigned its entire right, title and interest in and to the Registered Mark.

6. The continued existence of Registration Number 2,043,091 is not consistent with the rights Petitioner possesses in its O.K. FIREWORKS mark and Petitioner is therefore damaged by the continued existence of Registration Number 2,043,091. The Registered Mark

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has been cited by the Trademark Examiner in Office Action No. 1 to the Application, issued on November 29, 2002, as a basis for denying the Application. Petitioner includes a copy of its Response to the Office Action, filed simultaneously with this Petition for Cancellation wherein it requests suspension of all action on the application until such time that the cancellation proceeding is resolved.

7. Pursuant to 37 C.F.R. 2.6(a)(16), the statutory fee of \$300.00 is enclosed to cover the single International Class in which the Petitioner seeks to cancel Registrant's Mark. Therefore, if for any reason the enclosed fee is insufficient (or excessive) in covering the required costs hereto, please debit (or credit) our Deposit Account No. 11-0160 accordingly. A duplicate copy of the Petition is enclosed.

8. Petitioner hereby appoints Ralph W. Kalish, Jr., Sondra D Schol, Wendy Boldt Cohen, Alan S. Nemes, Sherry G. Hanlon, and Michael Annis, members of the Bar of the State of Missouri, with offices at Blackwell Sanders Peper Martin LLP, 720 Olive Street, 24th Floor, St. Louis, Missouri 63101, as its attorneys in the above-entitled Cancellation Action, to prosecute the same and to transact all business before the Trademark Trial and Appeal Board and in the United States Patent and Trademark Office in connection with said Petition to Cancel, with all communications to be sent to Ralph W. Kalish.

WHEREFORE, Petitioner believes that it would be damaged by the continued registration of the Registered Mark, and Petitioner prays that Registration Number 2,043,091 be cancelled.

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Respectfully submitted,

AMERICAN PROMOTIONAL EVENTS, INC.

Dated: 2/3/03

By 

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